

ADAM G. GASNER (SBN 201234)
Law Chambers Building
345 Franklin Street
San Francisco, CA 94102
Telephone: 415-782-6000
Facsimile: 415-241-7340
E-Mail: adam@gasnerlaw.com

VALERY NECHAY (SBN 314752)
Law Chambers Building
345 Franklin Street
San Francisco, CA 94102
Telephone: 415-652-8569
E-Mail: valerynechaylaw@gmail.com

Attorneys for Defendant
YEVGENIY ALEXANDROVICH NIKULIN

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

YEVGENIY ALEXANDROVICH NIKULIN,

Defendant.

No. CR-16-00440 WHA

**DEFENDANT'S MOTION IN LIMINE
NO. ONE TO EXCLUDE ALLEGED
CO-CONSPIRATOR STATEMENTS
UNDER FED. R. EVID. 801(D)(2)(E)**

INTRODUCTION

Defendant YEVGENIY ALEXANDROVICH NIKULIN ("Mr. Nikulin") is charged by indictment with three counts of computer intrusion (Counts One, Four, and Seven), in violation of 18 U.S.C. § 1030(a)(2)(C); two counts of intentional transmission of information, code, or command, causing damage to a protected computer (Counts Two and Eight), in violation of 18

1 U.S.C. § 1030(a)(5)(A); two counts of aggravated identity theft (Counts Three and Nine), in
 2 violation of 18 U.S.C. § 1028A(a)(1); one count of trafficking in unauthorized access devices
 3 (Count Six), in violation of 18 U.S.C. § 1029(a)(2); and one count of conspiracy (Count Five), in
 4 violation of 18 U.S.C. § 371.

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 6 A pretrial conference is set in this case for February 26, 2020 with a jury trial set for March
 7 9, 2020.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 In accordance with the parties' stipulation (ECF 118) and pursuant to Federal Rule of
 10 Evidence 801(D)(2)(E), the defense hereby moves to exclude any and all co-conspirator statements
 11 the United States intends to offer against the defendant at trial. The substance of the co-conspirator
 12 statements the government intends to offer are included in the United States' Motion In Limine No.
 13 One. The defense will address the particular statements sought to be introduced in the Defense's
 14 Opposition to United States' Motion In Limine No. One.
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 17 DATED: January 29, 2020

18 /s/ Adam Gasner
 19 Adam G. Gasner, Esq.
 Attorney for Defendant
 YEVGENIY ALEXANDROVICH NIKULIN

20 DATED: January 29, 2020

21 /s/ Valery Nechay
 22 Valery Nechay, Esq.
 Attorney for Defendant
 YEVGENIY ALEXANDROVICH NIKULIN
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